

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER**

WAYNE P. COSTIGAN,
Complainant,

v.

NYNEX,
Respondent.

)
)
) 8 U.S.C. § 1324b Proceeding
)

) OCAHO Case No. 97B00026
)

) Judge Robert L. Barton, Jr.
)
)

FINAL ORDER OF DISMISSAL

(April 22, 1997)

On March 5, 1997, I issued an Order Granting Respondent's Motion to Dismiss (hereinafter Order). As part of its motion to dismiss, Respondent requested an award of costs and fees because Complainant's complaint was patently frivolous. In the Order I observed that pursuant to 8 U.S.C. § 1324b(h) and 28 C.F.R. § 68.52(c)(2)(v), once the case had been adjudicated, the prevailing party may recover a reasonable attorney's fee if the losing party's argument was without reasonable foundation in law and fact. Therefore, I retained jurisdiction to determine whether costs and attorney's fees were appropriate in this case, and I ordered Respondent to file, not later than April 7, 1997, a certification of services detailing the fees and costs incurred in connection with this action.

Despite the fact that Respondent's counsel, Saul Scheier, requested an award of costs and fees in Respondent's motion to dismiss, and despite the fact that he was ordered to file a certification of services not later than April 7, 1997, to this date the Court has not received any communication from Mr. Scheier. Either he has been negligent in this matter, or he no longer intends to seek attorney fees and costs on behalf of Respondent. In any event, the April 7, 1997 deadline for submitting an application for fees and costs has long passed.

Therefore, since Respondent has failed to submit its application for fees and costs, this proceeding is now dismissed.

ROBERT L. BARTON, JR.
ADMINISTRATIVE LAW JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on April 22, 1997, I have served the foregoing Order of Dismissal on the following persons at the addresses shown by first class mail, unless otherwise noted:

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(Complainant)

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NOTICE CONCERNING RIGHT OF APPEAL

As provided by statute and regulation, not later than 60 days after entry of this final order, a person aggrieved by such order may seek review in the United States court of appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business. See 8 U.S.C. § 1324b(i); 28 C.F.R. § 68.53(b).